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इस भाग में निम्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF INDUSTRIAL DEVELOPMENT, INTERNAL TRADE AND COMPANY AFFAIRS

(Department of Industrial Development)

NOTIFICATION

New Delhi, the 18th February 1970

S.O. 711—Whereas the Industrial Licensing Policy Inquiry Committee has in its report submitted to Government referred to certain instances of irregularities, lapses or improprieties said to have taken place in the matter of the grant, utilisation or implementation of industrial licences to or by some of the Large Industrial Houses in the country;

And whereas the Committee has found that in the matter of financial assistance (by way of loans, underwriting of shares and debentures, purchase of shares or otherwise) from certain financial and other institutions, namely, the Industrial Finance Corporation of India, the Industrial Credit and Investment Corporation of India, the Industrial Development Bank of India, the Life Insurance Corporation of India, the Unit Trust of India and the State Bank of India and its subsidiaries, the share of the Larger Industrial Houses referred to as such in the report of the Industrial Licensing Policy Inquiry Committee, is very large and certain groups of concerns have benefited most;

And whereas certain allegations had been made to the Government against certain concerns which have been included by the Industrial Licensing Policy Inquiry Committee in the Larger Industrial House of Birla (hereinafter referred to as the Birla Group of concerns), about the exercise of undue influence on, or the obtaining of undue favours from, the Government in the matter of industrial

licences, about gross irregularities in the management of those concerns amounting in many cases to contravention of laws and about many other improprieties or illegalities; and whereas some of these allegations, mostly those having a bearing on industrial licensing, were referred to the Industrial Licensing Policy Inquiry Committee and allegations which on investigation disclosed a *prima facie* case have been made the subject matter of appropriate legal proceedings, while a few others are pending further investigation; and whereas the Industrial Licensing Policy Inquiry Committee has reported on certain allegations referred to it that it has not been in a position to conduct a full and detailed inquiry;

And whereas the Central Government is of opinion that there should be a full inquiry into the matters referred to in the preceding paragraphs, which are definite matters of public importance, to determine what measures are necessary to prevent the recurrence of such irregularities, lapses or improprieties as aforesaid:

Now, therefore, in exercise of the powers conferred by Section 3 of the Commissions of Inquiry Act, 1952 (60 of 1952), the Central Government hereby appoints a Commission of Inquiry consisting of Shri A. K. Sarkar, formerly Chief Justice of the Supreme Court of India.

The Commission shall inquire into and report on and in respect of—

- (i) such instances of irregularities, lapses or improprieties pointed out by the Industrial Licensing Policy Inquiry Committee in its main Report as are mentioned in Schedule 'A' annexed hereto and, in addition, such other specific cases of irregularities, lapses or improprieties referred to in that Report as the Commission may deem fit for inquiry, with a view to determining the circumstances in which they occurred and the concerns, institutions or persons responsible therefor;
- (ii) the financial assistance (by way of loans, underwriting of shares and debentures, purchase of shares or otherwise) given to the Larger Industrial Houses referred to in the Report of the Industrial Licensing Policy Inquiry Committee by certain financial and other institutions, namely, the Industrial Finance Corporation of India, the Industrial Credit and Investment Corporation of India, the Industrial Development Bank of India, the Life Insurance Corporation of India, the Unit Trust of India and the State Bank of India and its subsidiaries, with a view to determining the circumstances in which such assistance was granted, whether any undue favour was shown or undue influence exercised in the grant of such assistance or in prescribing the terms thereof and, if so, the concerns, institutions or persons responsible therefor;
- (iii) the allegations mentioned in Schedule 'B' annexed hereto regarding the Birla Group of concerns which were referred to the Industrial Licensing Policy Inquiry Committee and in respect whereof that Committee has not been in a position to conduct a full and detailed inquiry;
- (iv) the allegations mentioned in Schedule 'C' annexed hereto regarding the Birla Group of concerns in respect whereof further investigation needs to be made in the public interest;

Provided that the investigation by the Commission into the said allegations (except allegation 5) shall be limited to the period from 1956 to 1968 (both years inclusive) unless the Commission considers it necessary in any case or cases to cover any period prior to 1956:

Provided further that in the investigation into allegation 4 of Schedule 'C', the Commission shall have regard to the reports and findings of any special investigations covering periods prior to 1956;

- (v) the measures, whether procedural or otherwise, which in the opinion of the Commission are necessary or desirable in the public interest in order to ensure that such irregularities, lapses or improprieties do not recur in the future; and
- (vi) such other allegations or matters which may come to the notice of the Commission, being matters connected with or arising out of the matters referred to above:

Provided that nothing in this notification shall be deemed to require the Commission to inquire into contraventions in respect of which criminal proceedings are pending in a Court of Law.

The Commission is expected to submit its report as soon as possible and in any event within a year from date of this notification.

SCHEDULE 'A'

Schedule of irregularities, lapses and improprieties arising from the main Report of the Industrial Licensing Policy Inquiry Committee.

(Reference has been given to the relevant paragraphs of the Report at the end of each item).

1. The circumstances in which a predominant share was obtained by the Large Industrial Houses, referred to as such in the Industrial Licensing Policy Inquiry Committee Report, or by large companies, in various industries, such as polyester and acrylic fibres, industrial gases, aluminium re-rolled products, trucks, soda ash, aluminium ingots, asbestos cement, aluminium foils, calcium carbide, newsprint, automobile tyres, caustic soda, rubber foot-wear, rayon grade pulp, beer, nylon (fibre and yarn), electric motors, phosphoric acid, switch gear, pesticides, fertilizers, razor blades, carbon black, cigarettes, radio receivers, wood pulp and certain other products mentioned in the said Report (Paras 4.24 to 4.52).

2. The circumstances in which advance understanding was given to particular applicants from Large Industrial Houses in respect of certain industries (Para 4.60).

3. The circumstances in which licences were issued when an item was on the banned list (Paras 4.61 to 4.63).

4. The circumstances in which applications were either disposed of at great speed or after inadequate or superficial scrutiny (Paras 4.64 to 4.74).

5. The circumstances in which certain cases of industrial licences were decided 'on file', particularly when the technical authority had not recommended the cases (Para 4.75).

6. The circumstances in which decisions in respect of certain applicants were reversed in their favour (Para 4.77).

7. The circumstances in which slow implementation of certain licences was permitted by the grant of several extensions (Paras 5.32 to 5.44).

8. The circumstances in which certain firms were able to exceed their licensed capacity in certain industries including those where the declared policy of the Government was to encourage them in the small-scale sector (Paras 5.45 to 5.47).

9. The circumstances in which certain Large Industrial Houses, including the Birla Group of concerns, were allowed to practise various forms of preemption (Para 5.58).

10. The justification for the decisions to permit the manufacture of earth moving equipment and heavy electrical motors in the private sector (Para 6.15).

11. The circumstances in which foreign collaborations were approved for different rates of royalties for the same products, which were either manufactured by another firm with collaboration or even established in India indigenously (Paras 6.82 to 6.83).

SCHEDULE 'B'

Schedule of allegations about the Birla Group of concerns which were referred to the Industrial Licensing Policy Inquiry Committee and, in respect whereof, the Committee has not been in a position to conduct a full and detailed inquiry.

1. The circumstances in which expansion of capacity in the Ballabgarh Unit of Hyderabad Asbestos Cement Product was effected and subsequently regularised.

2. (a) The circumstances in which expansion of capacity and import of capital goods in respect of the Amlal Unit of Orient Paper Mills was effected.

(b) Whether the area originally proposed for Mc Leods, was leased in favour of the Amlal Unit of the Orient Paper Mills and, if so, the circumstances in which this was done.

(c) Whether a complete Duplex Board machine, after obtaining an import licence for spare parts, was installed in the Brajrajnagar Unit of the Orient Paper Mills and the circumstances in which this was done.

3. (a) The circumstances in which pre-emption of all potential locations for the Rayon Grade Pulp industry was done by Birla Group of concerns.

(b) The circumstances in which the Birla Group of concerns have acquired a predominant share in Staple Fibre Industry, Viscose Filament Yarn Industry and Acetate Rayon Yarn Industry.

4. The circumstances in which a licence for DDT was granted to Century Chemicals and the justification therefor.

5. The circumstances in which the decision to permit the Birla Group of concerns to set up an Aluminium Plant at Mirzapur was taken and the justification therefore.

6. The circumstances in which larger financial assistance (by way of loans, underwriting of shares and debentures, purchase of shares or otherwise) was granted to the Birla Group of concerns by the Industrial Finance Corporation of India, the Industrial Credit and Investment Corporation of India, the Industrial Development Bank of India, the Life Insurance Corporation of India, the Unit Trust of India and the State Bank of India and its subsidiaries (by way of direct financial assistance as well as through underwriting of shares and debentures and market purchase of shares); and the extent to which such assistance helped the growth of the Birla Group of concerns.

SCHEDULE 'C'

Allegations relating to the Birla Group of concerns on which further investigation needs to be made in the public interest.

1. Whether, and if so the circumstances in which, many investment companies included in the Birla Group of concerns have been manipulating shares by way of transfer from one Company to another at arbitrary prices thereby defrauding the Central Revenues or circumventing Company Law.

2. Whether, and if so the circumstances in which, large salaries have been and are paid to the wives and other relatives of high executives of the Birla Group of concerns without any service or inadequate service being rendered by them in recompense.

3. Whether, and if so the circumstances in which, the shares of newly floated Companies issued at a very high premium had been purchased by Companies included in the Birla Group of concerns without any commercial justification.

4. Whether there was—

(i) any defrauding or attempt to defraud Government of its legitimate revenues (including any case of defrauding, or attempt to defraud, through creation of trusts),

(ii) any unauthorised retention of foreign exchange abroad by manipulation of invoice values of the goods imported or exported during the said period or any other defrauding or attempt to defraud Government of foreign exchange,

which has either not been detected or, if detected, has been dealt with by the normal departmental authorities responsible for enforcement of the relative tax or foreign exchange laws improperly with a view to showing undue favour or giving unmerited benefit to the Birla Group of concerns.

5. Whether the managements of the Ruby General Insurance Company and the New Asiatic Insurance Company had, during the period covered by the investigation of the Auditors appointed by the Controller of Insurance, indulged in malpractices, including misappropriation of funds and manipulation of accounts in relation to which action could be taken under the law against those Companies or the persons responsible for the conduct of the affairs of those Companies.

6. Whether, and if so the circumstances in which, the affairs of M/s. India Linoleum Limited are managed against the public interest, as revealed by such instances as the obtaining of a Bank loan merely to give it to another concern of the Birla Group of concerns, making bogus salary payments to the executives of the Birla Group of concerns, their wives and children, making false bills with a view to inflate expenditure, charging prices considerably in excess of production costs and alleged supply of deficient quality of linoleum to Defence Ministry.

7. Whether M/s. Oudh Sugar Mills Limited have defrauded or attempted to defraud the Railways by overloading of railway wagons.

8. Whether in the matter of contract for Sone Barrage Gates, Birla Group of concerns were shown any undue favour vis-a-vis other parties and if so, the circumstances in which this was done.

9. Whether, and if so the circumstances and manner in which, manufacturing concerns included in the Birla Group of concerns have indulged in inflating and manipulating their cost structure against the public interest.

10. Whether certain concerns of the Birla Group of concerns imported mutton tallow against import licences given to exporters of leather goods and the justification for giving import licences to leather goods exporters in excess of their needs.

11. Whether the Birla Group of concerns have derived any undue benefit by the employment of senior retired Government servants and whether such employment of retired senior Government servants involved any impropriety.

12. Whether the Birla Group of concerns employ a large number of 'Contact-men' and the extent to which these 'Contact-men' have influenced the commission of improprieties.

13. Whether any senior Government servant or well-known politician has placed himself under obligation to the Birla Group of concerns by receiving free treatment at the Bombay Hospital run by them.

14. Whether the affairs of the Technological Institute of Textiles and certain other textile mills of the Birla Group of concerns have been managed against the public interest as would appear from allegations relating to obtaining of wrongful gains, evasion of excise duty, etc.

[No. 13(14)/Lic. Pol./69.]

T. SWAMINATHAN, Secy.

